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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following report of the Joint Committee on the Bill to determnie the conditions of service of the Comptroller and Auditor-General of India and to prescribe his duties and powers and for matters connected therewith or incidental thereto was presented to Lok Sabha on the 16th November, 1970:—

COMPOSITION OF THE COMMITTEE

Shri S. M. Joshi—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Sonubhau Dagadu Baswant
3. Shrimati Jyotsna Chanda
4. Shri Y. B. Chavan
5. Shri Dinkar Desai
6. Shri Nageshwar Dwivedi
7. Shri J. M. Imam
8. Shri S. Kandappan
9. Shri S. S. Kothari
10. Shrimati Sangam Laxmi Bai
11. Shri Dhuleshwar Meena
12. Shri Anand Narain Mulla

[1] Appointed on the 26th August, 1970.

13. Shri P. K. Vasudevan Nair
14. Shri D. N. Patodia
15. Chaudhuri Randhir Singh
16. Shri S. M. Siddayya
17. Shri S. N. Shukla
18. Shri Sant Bux Singh
19. Shri R. Umanath
20. Shri Nagendra Prasad Yadav
†21. Shri Paokai Haokip
*22. Shri Vidya Charan Shukla

Rajya Sabha

23. Shri M. Anandam
24. Shri Anant Prasad Sharma
25. Shri Gurumukh Singh Musafir
26. Shri C. D. Pande
27. Shri T. Chengalvaroyan
28. Shri Sundar Mani Patel
29. Shri Kalyan Roy
30. Shri Thillai Villalan
‡31. Pandit Bhawaniprasad Tiwari
*32. Shri B. N. Mandal.
$33. Shri V. B. Raju.

LEGISLATIVE COUNSEL

1. Shri S. K. Maitra, *Joint Secretary and Legislative Counsel, Ministry of Law.*
2. Shri A. P. Pandey, *Asstt. Legislative Counsel, Ministry of Law.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF ECONOMIC AFFAIRS

1. Dr. I. G. Patel, *Secretary.*
2. Shri B. Maithreyan, *Joint Secretary (Budget).*
3. Shri A. G. Krishnan, *Deputy Secretary (Budget).*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

*Appointed on the 26th August, 1970.

††Ceased to be member of the Joint Committee w.e.f. 2nd April, 1970. on his retirement from Rajya Sabha and was reappointed on the 23rd May, 1970.

**Appointed on the 23rd May, 1970 *vice* Shrimati Sarla Bhadauria who ceased to be member of the Joint Committee w.e.f. 2nd April, 1970 on her retirement from Rajya Sabha.

$Appointed on the 1st September, 1970.

†Appointed on the 1st September, 1970 *vice* Shri Prakashchand B. Sethi resigned.

REPORT ON THE JOINT COMMITTEE

I, the Chairman of the Joint Committee to which the Bill* to determine the conditions of service of the Comptroller and Auditor-General of India and to prescribe his duties and powers and for matters connected therewith or incidental thereto was referred, having been authorised to submit the Report on their behalf, present their Report with the Bill, as amended by the Committee, annexed thereto.

2. The Bill was introduced in Lok Sabha on the 23rd July, 1969. The motion for reference of the Bill to a Joint Committee of the Houses was moved in Lok Sabha by Shri Prakashchand B. Sethi, the then Minister of State in the Ministry of Finance, on the 30th August, 1969 which was discussed and adopted on the same day.

3. The Rajya Sabha discussed and concurred in the said motion on the 18th November, 1969.

4. The message from Rajya Sabha was reported to Lok Sabha on the 21st November, 1969.

5. A motion for raising the membership of the Joint Committee from thirty to thirty-three was moved in the Lok Sabha by Shri Y. B. Chavan, the Minister of Finance, on the 26th August, 1970 which was discussed and adopted on the same day (Appendix III). The Rajya Sabha discussed and concurred in the said motion on the 1st September, 1970 and the message from Rajya Sabha was reported to Lok Sabha on the 2nd September, 1970.

6. The Committee held sixteen sittings in all.

7. The first sitting of the Committee was held on the 18th December, 1969 to draw up their future programme of work. The Committee at this sitting decided to hear oral evidence of the ex-Comptroller and Auditor-Generals of India, the present Comptroller and Auditor-General of India and other organisations/individuals desirous of presenting their views before the Committee. A Press Communique inviting memoranda for the purpose was accordingly issued.

8. Thirty memoranda/representations on the Bill were received by the Joint Committee from different associations/individuals etc. (Appendix V).

9. At their 2nd, 3rd, 4th, 6th, 8th, 9th, 10th and 12th sittings held on the 19th, 20th January, 16th February, 13th April, 16th and 17th June, 17th July and 30th September, 1970 respectively, the Committee heard the evidence given by the Comptroller and Auditor-General of India and other individuals and organisations.

*Published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 20th May, 1969 with the permission of the Speaker.

10. The Report of the Committee was to be presented by the last day of the Ninth Session of Lok Sabha. As this could not be done, the Committee at their first sitting held on the 18th December, 1969 decided to ask for extension of time for the presentation of their Report upto the first day of the Eleventh Session. Necessary motion was brought before the House and adopted on the 20th December, 1969. At their Tenth sitting held on the 17th July, 1970, the Committee again decided to ask for further extension of time upto the first day of the second week of the Twelfth Session which was granted by the House on the 27th July, 1970.

11. The Committee considered the Bill clause-by-clause at their fourteenth and fifteenth sittings held on the 5th and 6th November, 1970.

12. The Committee have decided that the evidence given before them should be printed *in extenso* and laid on the Table of both the Houses.

13. The Committee have further decided that a set of memoranda submitted by various associations, bodies, organisations, Government Departments, etc., should be placed in Parliament Library for reference by members after the Report of the Committee has been presented to the House.

14. The Committee considered and adopted the Report on the 12th December, 1970.

15. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

16. *Clause* 3.—Although the Bill provides for the payment of a monthly salary of rupees four thousand to the Comptroller and Auditor-General, which sum is equal to the salary of a puisne judge of the Supreme Court, **the Committee feel that it would be commensurate with the status of the Comptroller and Auditor-General, if a provision is made to the effect that he could get a salary which is equal to the salary of a judge of the Supreme Court. The clause has been amended accordingly.**

17. *Clause* 4.—The Committee feel that the status of the Comptroller and Auditor-General should be equated, as far as possible, to that of a judge of the Supreme Court. **The Committee, therefore, feel that although the term of office of the Comptroller and Auditor-General may be retained as in the Bill, a provision should be made to the effect that the Comptroller and Auditor-General shall hold office for a term of six years or until he attains the age of sixty-five years, whichever is earlier. The clause has been amended accordingly.**

18. *Clause* 6.—The original clause *inter alia* provided that the Comptroller and Auditor-General, on demitting office, shall, if he belonged to any Service before assuming office as Comptroller and Auditor-General, be entitled to pension under the rules applicable to the Service to which he belonged and in addition to an additional pension of Rs. 600 per annum for each completed year of service as Comptroller and Auditor-General subject to a maximum of in the aggregate of Rs. 13,333.33, inclusive of the pension equivalent of death-cum-retirement gratuity. In the case of a non-service officer appointed as Comptroller and Auditor-General, he would on demitting office be eligible to such pension not exceeding

Rs. 13,333.33 per annum as the President may determine. **The Committee feel that the amount of pension payable to the Comptroller and Auditor-General on his demitting office should be fifteen thousand rupees per annum and in the case of a Service officer his pension should be inclusive of all pensions payable to him and the commuted portion, if any, of his pension, and the pension equivalent of the death-cum-retirement gratuity, if any, which may have been admissible to him under the rules applicable to the Service to which he belonged. However, if at any time he becomes entitled to a pension higher than the sum of fifteen thousand rupees under the rules governing the Service to which he belonged, he should be eligible to draw, as pension, the said higher amount. The Committee also feel that a person, who demits office as the Comptroller and Auditor-General by resignation, should be eligible on such demission to a pension at the rate of two thousand rupees per annum for each completed year of service as the Comptroller and Auditor-General but in no case the total annual pension payable to such person should exceed the amount mentioned above. If such a Comptroller and Auditor-General belonged to any service before he assumed office as Comptroller and Auditor-General he will in addition to Rs. 2,000 per annum for each completed year of service as Comptroller and Auditor-General be also eligible to the pension admissible under the rules applicable to the Service to which he belonged provided the aggregate of all the pensions does not exceed Rs. 15,000 or such higher pension which may be admissible to him under the rules of the Service to which he belonged. The clause has been amended accordingly.**

19. *Clause* 13.—This clause provides that the Comptroller and Auditor-General shall audit *inter alia* all trading, manufacturing and profit and loss accounts and balance sheets kept in any department of the Union or of a State. **Although the balance sheets will include subsidiary accounts to make the position clear the Committee feel that it should be specifically provided for in the clause that the Comptroller and Auditor-General will audit the subsidiary accounts also. The clause has been amended accordingly.**

20. *Clause* 14.—The clause introduces a new provision providing for audit by the Comptroller and Auditor-General of expenditure of bodies or authorities financed *entirely* by grants or loans out of the Consolidated Fund of India or of a State or of a Union Territory having a Legislative Assembly. **The Committee feel that the audit by the Comptroller and Auditor-General of such expenditure should extend not only to those bodies or authorities financed 'entirely' but also to bodies or authorities which have been the recipient of substantial amount by way of grants or loans. The Committee also feel that such audit should also extend to receipts of such bodies or authorities. The clause has been amended to provide for these matters. Although it is implicit that the right to audit the accounts including the right to report the result of audit, the Committee consider it desirable that it should be clarified in the section itself. An amendment to that effect has, therefore, been made in the clause.**

21. *Clause* 16.—The clause provides that the Comptroller and Auditor-General shall be empowered to audit all receipts which are payable into the respective Consolidated Funds and to satisfy himself that the rules and procedures are designed to secure an effective check on assessment, collections, etc. and to report thereon. **The Committee, however, feel**

that the Comptroller and Auditor-General should not be burdened with this duty in cases where it may not be in the public interests to get such receipts audited. Accordingly the clause has been amended by adding a proviso to the effect that where the President is of the opinion that it is necessary so to do in the public interest, he may, by order, relieve the Comptroller and Auditor-General, after consultation with him, from his duty to audit such receipts as may be specified in the order. In case of receipts payable into the Consolidated Fund of a State or of a Union territory having a Legislative Assembly, which exemptions shall be made after consultation with the Governor of the State concerned or the Administrator of the Union territory, as the case may be.

22. *New Clause* 20.—Under the existing law, accounts of the Food Corporation of India are to be audited by Chartered Accountants who are duly qualified to act as auditors of Companies under the Companies Act, 1956. Such auditors are appointed annually from a panel of auditors approved by the Central Government on the advice of the Comptroller and Auditor-General. **There is no provision in the Food Corporations Act, 1964 for the audit of its accounts by the Comptroller and Auditor-General. Considering the fact that substantial sums from the Consolidated Fund of India have been invested in the Food Corporation, the Committee feel that a specific provision should be made in the Act empowering the Comptroller and Auditor-General to conduct, atleast, a supplementary or test audit of the accounts of the Food Corporation of India as in the case of a Government Company.** The new clause 20 has been inserted accordingly. The Committee would like to observe that if necessary steps are taken by the Government to get the Food Corporations Act, 1964 amended to provide for an audit by the Comptroller and Auditor-General of India of the accounts of the Corporation, this new clause may be dropped.

23. *New Clause* 27.—The clause has been added in order to remove any doubt about the operation of the Government of India (Audit and Accounts) Order, 1936, as adapted by the Indian (Provisional Constitution) Order, 1947, after the commencement of the Bill when enacted into law.

24. The Joint Committee recommended that the Bill, as amended, be passed.

S. M. JOSHI,
Chairman, Joint Committee.

NEW DELHI;
November 12, 1970.
Kartika 21, 1892 (*Saka*).

MINUTES OF DISSENT

I

While I am in agreement with the general objectives and scheme of this Bill as it has emerged from the Joint Committee, I consider it necessary to append this Minute of Dissent in regard to certain matters. While the Government has accepted our contention that the Food Corporation of India should be subjected to a supplementary or test audit by the Comptroller and Auditor General of India, it has not agreed to extend similarly such audit to:—

(a) nationalised banks;

(b) Reserve Bank of India, in so far as the transactions relate to inflow and outflow of foreign exchange;

(c) all industrial finance corporations established by the Central Government and Unit Trust of India;

(d) Life Insurance Corporation of India, in so far as the transactions relate to investments, their purchase, sale and holdings by the Corporation;

2. In my opinion, the audit conducted by the statutory auditors is satisfactory in so far as normal audit is concerned, but it is accepted that it is not a part of the duty of such auditors to examine in depth the propriety aspect of the transactions of the aforesaid institutions. It is of the utmost importance that the propriety aspect should be subject to scrutiny by an independent agency like the Comptroller and Auditor General.

3. I would particularly emphasize that it is in public interest that loans and other transactions of nationalised banks should be subject to supplementary or test audit by the Comptroller and Auditor General. I had specifically asked the Minister to give an assurance that the nationalised banks would be brought within the scope of the Comptroller and Auditor General's audit but the Government did not appear to have made up its mind on this issue.

4. Clause 20 of the Bill confers omnibus powers on the Government, acting through the President or the Governor of a State, to undertake the audit of the accounts of anybody or authority, after consultation with the Comptroller and Auditor General. The Minister was asked by various Members in the Joint Committee to give an assurance that such "authorities or bodies" would not include private sector concerns or individual businesses. The Minister refused to give any such assurance and the impression we gathered was that the Government, through this blanket clause, was acquiring unlimited powers to order supplementary or test audit by the Comptroller and Auditor General in any private sector concern. This, in my opinion, goes far beyond the scope of this Bill. The Comptroller and Auditor General's responsibility is in respect of public funds dealt with by public sector undertakings and Government revenue and expenditure. While, on the one hand, the Government is reluctant to extend the Comptroller and Auditor General's audit to important public financial institutions mentioned above, it takes wide blanket powers to impose Comptroller and Auditor General's audit on private sector concerns,

in which the Government may not have any financial interest. There does not appear to be any rationale behind this. Sufficient powers for inspection and investigation into private sector concerns, where necessary, exist in the Companies Act and the Income-tax Act. In my opinion, they should not have been brought within the ambit of clause 20 of this Bill, which should have been confined to public sector authorities and bodies only. Subject to the above remarks, I welcome the provisions of the Bill.

NEW DELHI; S. S. KOTHARI.
The 12th November, 1970.

II

The Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Bill, 1969 as reported by the Joint Committee, is an improvement over the original Bill but it has not taken the form which I had desired. It appears that the powers and duties of C.&A.G. have been defined as if he were only a part of the Executive and no attempt has been made to understand the reasons for which independent status was accorded to him in the Constitution. The intention behind this provision in the Constitution is that there should be a person who in the economic interest of public may exercise vigilance over the economic activities of the Executive and may report, through the President and the Governors, his opinion to the Parliament and the State Legislatures respectively. After 1953, it was opportune time when taking advantage of the experience gained during these years, a step should have been taken to remove the obstacle in the way of regulating the activities of the Executive; but the present Bill has failed to a great extent in this respect. The Bill does not empower the Comptroller and Auditor General to audit, if necessary, the accounts of any Company or Corporation, simply by virtue of his Office and for this purpose he will have to look for his powers in some particular legislation passed by Parliament or will have to depend on the consent of the President. Not only this, if Executive so desires it can, by advising the President, prevent the Comptroller and Auditor General from exercising such powers conferred on him by law. This helpless position of the Comptroller and Auditor General is against the spirit of the Constitution. Therefore, I wish to record my note of dissent on this Report.

BHUPENDRA NARAYAN MANDAL.

NEW DELHI;
The 12th November, 1970.

III

I have serious differences with the basic approach and major provisions of the Bill. The basic approach of the Bill is that fabulous salary, lucrative service conditions and raised status for the post of Comptroller and Auditor General, at the exclusion of the rest of the staff of the entire organisation, would ensure efficient execution of the duties and proper exercise of the powers, defined in the Bill. Anyone conversant with the working of the department headed by the Comptroller and Auditor General, will be aware of the fact that, the compilation of accounts, their scrutiny, detection of irregularities and formulation of audit objections and audit paras, are initially and primarily done by the subordinate audit staff namely, Auditors and Accountants. The first level at which accounts are compiled and audit is conducted, is the Auditor as per Code Books of the department, whose nature of work is such that it is no less difficult (as well as important) than the duties performed by, say, an Assistant in the Secretariat. The second level in the department which is also the primary level of supervision is an S.A.S. Accountant, which performs duty for more onerous and complex than a Section Officer in the Secretariat. Therefore, it is essential that the Audit Staff at various levels, are provided with a status which secures access to and ease of contract with officials, whose decisions and transactions, Audit Staff are required to review, since the audit staff alone will be able to explain and give further information about them. Yet one will be surprised to learn that at present, these Auditors are classified as mere Upper Division Clerks, in terms of salary, status and service conditions, In view of this, the Audit Staff do not command the due respect and authority in the subordinate offices of the various Ministries and departments of the Central Government and State Governments, as commanded even by the private audit agency while doing the primary audit. Instances are not wanting in which audit parties have been refused the inspection of relevant records for on the spot probe into financial transactions of doubtful propriety. In behaving so, often, the executive officials of the ministries and departments, get courage from the low, status, salary and service conditions conferred on the audit and other connected staffs. Audit staff also are influenced in their work of scrutiny and comments on transactions, from comparable position, status, salary and service conditions with their counterparts, whose financial transactions they are auditing.

This is the reason why many witnesses including the two ex-Comptroller and Auditor Generals have opined that the staff of the C. & A.G.'s department, must be conferred parity of status, salary and service conditions with those of the Central Secretariat staff. But this Bill which provides for higher status, salary and service conditions for the topmost bracket in the hierarchy, for which it even amends its earlier provision and confers upon the post, the status of the Supreme Court Judge, would not countenance even the need for recognition of parity of status, salary and service conditions of the staff, in discharging the duties defined in the Bill. I opposed the raising of the status of the Comptroller and Auditor General to that of the Supreme Court Judge and fixing 65 years of age as ceiling for retirement. In fact the Constituent Assembly, went into the question of giving the C. & A.G. the status of

High Court Judge, and rejected it. I also hold strongly that provision must be made in the Bill recognising the parity of status, salary and service conditions for the staff at all levels with that of the Central Secretariat.

I think that certain minimum qualifications must be prescribed for appointment to the post of Comptroller and Auditor General. The provision of 65 years as the age at which the C. & A.G. is to retire, is on the high side. It will act as a *modus operandi* by which the tenure of office of retiring Government officials, which at present is 58, will be further extended by the Government of India. An official, on entering the service under such circumstances, will entertain a feeling that the Government have conferred a favour on him which will, in turn, create a sense of obligation on him. It will be more so now, since the status is raised to that of a Supreme Court judge. The power of appointment of Comptroller and Auditor General in the above circumstances, will only add to the executive's armoury of favouritism, and to the potential of corrupting influence. With this, even the little appearance of independence of the department will vanish.

I consider that the pension provisions are fabulous. Provisions must be made bringing the public sector undertakings, nationalised banks and LIC also under the purview of the C. & A.G.'s audit.

I strongly object to the provision conferring power on the Government to withdraw from the C. & A.G., the work of compiling of accounts, when the Government considers it necessary. There is weighty evidence on record from witnesses including the C. & A.G., to the effect that separation of accounts results in abnormal expenditure which far outweighs its likely advantages, as well as to the effect, that retention of compilation with the C. & A.G., helps locate the area and source of irregularities. Separation also renders surplusage of staff, and large-scale disturbance of the conditions and work of the staff by transfers, blocking of promotional avenues etc. as seen in the latest experiment of separation in the Tele Communications. Such experiments have failed in U.P. and West Bengal. Ministry of Food and Agriculture of the Union Government having experimented the same for 15 years, are now reported to be thinking of surrendering the work of compilation of accounts back to the C. & A.G.'s department. In these circumstances, the provision empowering Government to separate accounts, should be removed from the Bill and a provision requiring the restoration of all separate accounts back to the C. & A.G. should be made.

The provision for excluding the expenditure of bodies or authorities getting grants or loans from the Consolidated fund of India or of any State or of any of the Union Territory having legislative Assembly, from the purview of the C. & A.G.'s audit, if the amount of loan or grant is upto Rs. 5 lakhs and less than 75 per cent of the total expenditure of that body or authority, is highly objectionable. It will permit of giving loans and grants in such a manner that these can be kept out from the purview of audit. For example, if grants or loan of, say, Rs. 50 lakhs is given to any body or authority whose total expenditure is 1 crore, this would not be subjected to audit under this provision.

For the foregoing and other reasons I consider the Bill, as it is, constitutes a retrograde measure, and requires thorough-going and far-reaching changes without which it deserves to be opposed.

NEW DELHI;
The 12th November, 1970.

R. UMANATH

IV

The Joint Committee has made some improvements in the original draft Bill. Still we feel that the Bill that has emerged from the Committee is not satisfactory. Today the Government has expanded its activities in diverse directions and tens of thousands of crores of rupees are being spent every year by the Union Government, State Governments, Union Territories, Local Self Governments, Corporations, Government Companies, etc. It is very necessary that the Parliament has to keep a watchful eye on these various kinds of financial operations. The Comptroller and Auditor General is the most effective instrument of Parliament for the same.

2. The Constitution makers left it to the Parliament to enact necessary legislation to define the duties, powers and conditions of service of the Comptroller and Auditor General.

3. The framers of the Bill have taken a narrow view when they decided to define the powers, duties and conditions of service of only the Comptroller and Auditor General. The Constitution does not prevent or debar the Parliament from going into the question of the set-up down below the Comptroller and Auditor General also. Actually, it is not enough to assure the independence and dignity of the office of the Comptroller and Auditor General only. The services of all the tens of thousands of other staff and officers of the establishment have to be generously available for the Comptroller and Auditor General, if he has to function properly. So, it was necessary to go into at least certain minimum matters concerning them also.

4. In this connection, we tried to highlight the existing lacuna in the allotment of budget provisions for Comptroller and Auditor General's office. Today the Comptroller and Auditor General is virtually dependent on the Executive for incurring any expenditure that he deems necessary to discharge his functions effectively. It is true that, whenever there is a divergence of views, he can directly discuss the matter with the Finance Minister. But the final decision is with the Finance Minister. There are instances where the Comptroller and Auditor General has made proposals which could not get acceptance from the Government. We feel that it is not proper that a vital department that performs a very key function on behalf of Parliament should have to go about knocking at the doors of the Finance Ministry for funds. One cannot imagine that a responsible department and its head will put up extraordinary demands on their parity. Taking everything into account, we feel that a provision should be made in the Bill to effect that estimates for the administrative expenses of the Indian Audit and Accounts Department may be drawn up by the Comptroller & Auditor General. It should be for the Parliament to discuss it and finalise it.

Another serious defect of the Bill is that the Executive is given powers to abridge the functions entrusted to the Comptroller and Auditor General. For example, clause 10, entrusts the responsibility for compiling the accounts of the union and States. The Administrative Reforms Commission had recommended this. But the President or Governor can relieve the Comptroller and Auditor General from this responsibility. Of course, there is a provision that the Comptroller and Auditor General should be consulted, but it has very little meaning. The piecemeal separation of the accounts from the audit functions will cause serious administrative difficulties too. Considering all this, we are of the opinion that, if the Government wants to relieve the Comptroller and Auditor General from any particular Department as far as compiling of account is concerned, they should come to Parliament and take permission for the same.

6. We feel that there is still much more scope for the Comptroller and Auditor General to take over the Audit functions of certain institutions or bodies where expenditure of substantial public funds is involved. For example, the Administrative Reforms Commission had recommended that the accounts of contractors with whom contracts for a value exceeding a crore of rupees are settled by Government through direct negotiations, and not as a result of open competitive tendering should be entrusted to the Comptroller and Auditor General. This recommendation ought to have been incorporate. Similarly, the provision regarding Government companies could have been more comprehensive.

7. So, we feel that, in spite of certain improvements by the Joint Committee, the Bill does not go far enough in strengthening the office of the Comptroller and Auditor General so that he could really be the watch-dog of public finances

NEW DELHI;
The 12th November, 1970.

P. K. VASUDEVAN NAIR
KALYAN ROY

V

The functions and the responsibilities of the office of the Comptroller and Auditor General have immensely increased with the widening of the activities of various Government Ministries and Departments. To ensure healthy and impartial functioning of this office it is necessary that it is kept autonomous and independent of any of the Ministries. At present the C. & A.G. is in the matter of appointments and financial allocations dependent upon the Finance Ministry, although this is the very Ministry which comes up for most direct scrutiny and criticism by the C.&A.G. Some provision, is therefore necessary by which the functioning of C. & A.G. is made independent of Finance Ministry.

2. The office of the Comptroller and Auditor General created with a specific purpose of auditing and investigating into the accounts of the Union and of the States and of such other bodies and authorities connected therewith. While drafting some of the provisions of the Bill the Government have clearly exceeded the scope within which the Comptroller and Auditor General is expected to function. In some of the provisions more particularly in clause 20 discretionary and arbitrary powers have been

given by which the President or the Governor or the Administrator in consultation with the Comptroller and Auditor General will be entitled to ask the Auditor General to undertake the investigation of the accounts of any Body or Authority wherever they consider it necessary in public interest. The powers derived by this clause would be so extensive that in the name of 'public interest' even such Bodies and Institutions, in which Government have no substantial or meagre interest in the form of share capital or loan or by way of payment of subsidies for a specific purpose, may be involved and subjected to the roving enquiry into the internal affairs of their working by the Comptroller and Auditor General. Provisions have already been made on the Bill by which whenever substantial grants or loans are given or whenever any subsidy is given for a specific purpose, the Comptroller and Auditor General will have enough power to audit the books of the recipients. There is abundance of legislation already available in various other Acts providing for all possible types of investigations into the working of the office of Bodies or Authorities. There is no justification whatsoever in bringing a fresh legislation of this nature by which overriding powers have been given to the Government permitting interference with the independence and the free working of Non-Government Institutions. Suitable amendments are therefore needed to be made in this Bill.

NEW DELHI;
The 12th November, 1970.

D. N. PATODIA

Bill No. 46-B of 1969

THE COMPTROLLER AND AUDITOR-GENERAL'S (DUTIES, POWERS AND CONDITIONS OF SERVICE) BILL, 1969

(AS REPORTED BY THE JOINT COMMITTEE)

[*Words side-lined or underlined indicate the amendments suggested by the Committee.*]

A

BILL

to determine the conditions of service of the Comptroller and Auditor-General of India and to prescribe his duties and powers and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title.

1. This Act may be called the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1970.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "accounts", in relation to commercial undertakings of a Government, includes trading, manufacturing and profit and loss accounts and balance-sheets and other subsidiary accounts;

(*b*) "appropriation accounts" means accounts which relate the expenditure brought to account during a financial year, to the several items specified in the law made in accordance with the provisions of the Constitution or of the Government of Union Territories Act, 1963, for the appropriation of moneys out of the Consolidated Fund of India or of a State, or of a Union territory having a Legislative Assembly, as the case may be;

20 of 1963.

(*c*) "Comptroller and Auditor-General" means the Comptroller and Auditor-General of India appointed under article 148 of the Constitution;

(*d*) "State" means a State specified in the First Schedule to the Constitution;

(*e*) "Union" includes a Union territory, whether having a Legislative Assembly or not.

CHAPTER II

SALARY AND OTHER CONDITIONS OF SERVICE OF THE COMPTROLLER AND AUDITOR-GENERAL

Salary.

3. There shall be paid to the Comptroller and Auditor-General a salary which is equal to the salary of the Judge of the Supreme Court:

Provided that if a person who, immediately before the date of assuming office as the Comptroller and Auditor-General, was in receipt of, or, being eligible so to do, had elected to draw, a pension (other than a disability or wound pension) in respect of any previous service under the Government of the Union or any of its predecessor Governments, or under the Government of a State or any of its predecessor Governments, his salary in respect of service as Comptroller and Auditor-General shall be reduced—

(*a*) by the amount of that pension; and

(*b*) if he had, before assuming office, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension: and

(*c*) if he had, before assuming office, received, or become eligible for receiving, a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity.

Term of Office.

4. The Comptroller and Auditor-General shall hold office for a term of six years from the date on which he assumes such office:

Provided that where he attains the age of sixty-five years before the expiry of the said term of six years, he shall vacate such office on the date on which he attains the said age:

Provided further that he may, at any time, by writing under his hand addressed to the President, resign his office.

Explanation.—For the purpose of this section, the term of six years in respect of the Comptroller and Auditor-General holding office immediately before the commencement of this Act, shall be computed from the date on which he had assumed office.

Leave

5. (1) A person who, immediately before the date of assuming office as the Comptroller and Auditor-General, was in the service of Government may be granted during his tenure of office but not thereafter, leave in accordance with the rules for the time being applicable to the Service to which he belonged before such date and he shall be entitled to carry forward the amount of leave standing at his credit on such date, notwithstanding anything contained in section 6.

(2) Any other person who is appointed as the Comptroller and Auditor-General may be granted leave in accordance with such rules as are for the time being applicable to a member of the Indian Administrative Service.

(3) The power to grant or refuse leave to the Comptroller and Auditor-General and to revoke or curtail leave granted to him, shall vest in the President.

Pension.

6. (1) A person who, immediately before the date of assuming office as the Comptroller and Auditor-General, was in the service of Government shall be deemed to have retired from service on the date on which he enters upon office as the Comptroller and Auditor-General but his service as the Comptroller and Auditor-General shall be reckoned as continuing approved service counting for pension in the Service to which he belonged.

(2) Every person who enters upon office as the Comptroller and Auditor-General shall, on demitting the said office, be eligible to a pension of a sum of fifteen thousand rupees per annum which sum shall include the aggregate of all pensions payable to him and the commuted portion, if any, of his pension, and the pension equivalent of the retirement gratuity, if any, which may have been admissible to him under the rules for the time being applicable to the Service to which he belonged:

Provided that if such a person is or becomes eligible, at any time, under the rules for the time being governing the Service to which he belonged, to a pension higher than the said sum of fifteen thousand rupees, he shall be eligible to draw, as pension, the said higher amount.

(3) A person who, immediately before the date of assuming office as the Comptroller and Auditor-General, was in receipt of, or, had become eligible for receiving, a pension in respect of any previous service under Government, shall, on demitting office as the Comptroller and Auditor-General, be eligible to a pension of fifteen thousand rupees per annum which sum shall include the aggregate of all pensions payable to him and the commuted portion, if any, of his pension, and the pension equivalent of the retirement gratuity, if any, which may have been admissible to him under the rules for the time being applicable to the Service to which he belonged:

Provided that if such a person is or becomes eligible, at any time, under the rules for the time being governing the Service to which he belonged, to a pension higher than the said sum of fifteen thousand rupees, he shall be eligible to draw, as pension, the said higher amount.

(4) Any other person who is appointed as the Comptroller and Auditor-General shall, on demitting the said office, be eligible to a pension of fifteen thousand rupees per annum.

(5) The person holding office immediately before the commencement of this Act as the Comptroller and Auditor-General shall be eligible to draw, at his option, pension at the rate at which it would be admissible to him if this Act had not come into force or at the rate specified in this section.

(6) A person who demits office as the Comptroller and Auditor-General by resignation shall, on such demission, be eligible to a pension at the rate of two thousand rupees per annum for each completed year of his service as the Comptroller and Auditor-General:

Provided that in the case of a person referred to in sub-section (1) or sub-section (3), the aggregate amount of pension admissible under this sub-section together with the amount of pension admissible to him under the rules for the time being applicable to the Service to which he belonged immediately before he assumed office as the Comptroller and Auditor-General, shall not exceed fifteen thousand rupees per annum, or the higher pension referred to in the provisos to sub-section (2) or sub-section (3), as the case may be.

(7) If a person who demits office as the Comptroller and Auditor-General is not eligible to any pension under this section but is eligible to a pension under the rules for the time being applicable to the Service to which he belonged immediately before he assumed office as the Comptroller and Auditor-General, he shall, notwithstanding anything contained in this section, be eligible to draw such pension as is admissible to him under the said rules.

(8) Except where he demits office by resignation, a person holding office of the Comptroller and Auditor-General shall be deemed, for the purposes of this Act, to have demitted such office as such if, and only if,—

(a) he has completed the term of office specified in section 4, or

(b) he has attained the age of sixty-five years, or

(c) his demission of office is medically certified to be necessitated by ill health.

Commutation of Pension.

7. The Civil Pensions (Commutation) Rules for the time being in force shall, with such adaptations as may be made therein by the President, apply to a person who had held office as the Comptroller and Auditor-General.

Right to subscribe to General Provident Fund.

8. Every person holding office as the Comptroller and Auditor-General shall be entitled to subscribe to the General Provident Fund (Central Services).

Other conditions of Service.

9. Save as otherwise expressly provided in this Act, the other conditions of service of a person holding office as the Comptroller and Auditor-General including his emoluments during any period of duty out of India and his travelling allowance while travelling on duty, shall be determined by the rules for the time being applicable to a member of the Indian Administrative Service holding the rank of Secretary to the Government of India:

Provided that nothing in this section shall have effect so as to give a person, who immediately before the date of assuming office as the Comptroller and Auditor-General, was in the service of Government, less favourable terms in respect of any of the matters aforesaid than those to

which he would be entitled as a member of the Service to which he belonged, his service as Comptroller and Auditor-General being treated for the purpose of this proviso as continuing service in the service to which he belonged.

CHAPTER III

DUTIES AND POWERS OF THE COMPTROLLER AND AUDITOR-GENERAL

Comptroller and Auditor-General to compile accounts of the Union and States.

10. (*1*) The Comptroller and Auditor-General shall be responsible—

(*a*) for compiling the accounts of the Union and of each State from the initial and subsidiary accounts rendered to the audit and account offices under his control by treasuries, offices or departments responsible for the keeping of such accounts; and

(*b*) for keeping such accounts in relation to any of the matters specified in clause (*a*) as may be necessary:

Provided that the President as respects the accounts of the Union, and the Governor of a State as respects the accounts of that State, may, after consultation with the Comptroller and Auditor-General, by order, relieve him from the responsibility for compiling the accounts of any particular service or department of the Union or of a State, as the case may be:

Provided further that the President may, after consultation with the Comptroller and Auditor-General, by order, relieve him from the responsibility for keeping the accounts of any particular class or character.

(*2*) Where, under any arrangement, a person other than the Comptroller and Auditor-General has, before the commencement of this Act, been responsible—

(*i*) for compiling the accounts of any particular service or department of the Union or a State, or

(*ii*) for keeping the accounts of any particular class or character,

such arrangement shall, notwithstanding anything contained in sub-section (*1*), continue to be in force unless, after consultation with the Comptroller and Auditor-General, it is revoked in the case referred to in clause (*i*), by an order of the President or the Governor of the State, as the case may be, and in the case referred to in clause (*ii*), by an order of the President.

Comptroller and Auditor-General to prepare and submit accounts to the President, Governors of States and Administrators of Union territories having Legislative Assemblies.

11. The Comptroller and Auditor-General shall, from the accounts compiled by him or by any other person responsible in that behalf, prepare in each year accounts (including, in the case of accounts compiled by him, appropriation accounts) showing under the respective heads the annual receipts and disbursements for the purposes of the Union, of each State and of each Union territory having a Legislative Assembly, and shall submit those accounts to the President or the Governor of a State or Administrator of the Union territory having a Legislative Assembly, as the case may be, on or before such dates as he may, with the concurrence of the Government concerned, determine.

Comptroller and Auditor-General to give information and render assistance to the Union and States.

12. The Comptroller and Auditor-General shall, in so far as the accounts for the compilation or keeping of which he is responsible enable him so to do, give to the Union Government, to the State Governments or to the Governments of Union territories having Legislative Assemblies, as the case may be, such information as they may, from time to time, require, and render such assistance in the preparation of their annual financial statements as they may reasonably ask for.

General provisions relating to audit.

13. It shall be the duty of the Comptroller and Auditor-General—

(*a*) to audit all expenditure from the Consolidated Fund of India and of each State and of each Union territory having a Legislative Assembly and to ascertain whether the moneys shown in the accounts as having been disbursed were legally available for and applicable to the service or purpose to which they have been applied or charged, and whether the expenditure conforms to the authority which governs it;

(*b*) to audit all transactions of the Union and of the States relating to Contingency Funds and Public Accounts;

(*c*) to audit all trading, manufacturing, profit and loss accounts and balance-sheets and other subsidiary accounts kept in any department of the Union or of a State;

and in each case to report on the expenditure, transactions or accounts so audited by him.

Audit of receipts and expenditure of bodies or authorities financed from Union or State revenues.

14. Where any body or authority is substantially financed by grants or loans from the Consolidated Fund of India or of any State or of any Union territory having a Legislative Assembly, the Comptroller and Auditor-General shall, subject to the provisions of any law for the time being in force applicable to the body or authority, as the case may be, audit all receipts and expenditure of that body or authority and to report on the receipts and expenditure audited by him.

Explanation.—Where the grant or loan to a body or authority from the Consolidated Fund of India or of any State or of any Union territory having a Legislative Assembly in a financial year is not less than rupees five lakhs and the amount of such grant or loan is not less than seventy-five per cent. of the total expenditure of that body or authority, such body or authority shall be deemed, for the purposes of this section, to be substantially financed by such grants or loans, as the case may be.

Functions of Comptroller and Auditor-General in the case of grants or loans given to other authorities or bodies.

15. (*1*) Where any grant or loan is given for any specific purpose from the Consolidated Fund of India or of any State or of any Union territory having a Legislative Assembly to any authority or body, not being a foreign State or international organisation, the Comptroller and Auditor-General shall scrutinise the procedures by which the sanctioning authority satisfies itself as to the fulfilment of the conditions subject to which such grants or loans were given and shall for this purpose have right of access, after giving reasonable previous notice, to the books and accounts of that authority or body:

Provided that the President, the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, as the case may be, may, where he is of opinion that it is necessary so to do in the public

interest, by order, relieve the Comptroller and Auditor-General, after consultation with him, from making any such scrutiny in respect of any body or authority receiving such grant or loan.

(*2*) Except where he is authorised so to do by the President, the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, as the case may be, the Comptroller and Auditor-General shall not have, while exercising the powers conferred on him by sub-section (*1*), right of access to the books and accounts of any corporation to which any such grant or loan as is referred to in sub-section (*1*) is given if the law by or under which such corporation has been established provides for the audit of the accounts of such corporation by an agency other than the Comptroller and Auditor-General:

Provided that no such authorisation shall be made except after consultation with the Comptroller and Auditor-General and except after giving the concerned corporation a reasonable opportunity of making representations with regard to the proposal to give to the Comptroller and Auditor-General right of access to its books and accounts.

Audit of receipts of Union or of States.

16. It shall be the duty of the Comptroller and Auditor-General to audit all receipts which are payable into the Consolidated Fund of India and of each State and of each Union territory having a Legislative Assembly and to satisfy himself that the rules and procedures in that behalf are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed and to make for this purpose such examination of the accounts as he thinks fit and report thereon:

Provided that where the President is of opinion that it is necessary so to do in the public interest, he may, by order, relieve the Comptroller and Auditor-General, after consultation with him, from his duty to audit such receipt as may be specified in the order:

Provided further that no such order shall be made in relation to any receipt payable into the Consolidated Fund of a State or Union territory having a Legislative Assembly except after consultation with the Governor of that State or the Administrator of that Union territory, as the case may be.

Audit of accounts of stores and stock.

17. The Comptroller and Auditor-General shall have authority to audit and report on the accounts of stores and stock kept in any office or department of the Union or of a State.

Powers of Comptroller and Auditor-General in connection with Audit of accounts.

18. (*1*) The Comptroller and Auditor-General shall, in connection with the performance of his duties under this Act, have authority—

(*a*) to inspect any office of accounts under the control of the Union or of a State, including treasuries and such offices responsible for the keeping of initial or subsidiary accounts as submit accounts to him;

(*b*) to require that any accounts, books, papers and other documents which deal with or form the basis of or are otherwise relevant to the transactions to which his duties in respect of audit extend, shall be sent to such place as he may appoint for his inspection;

(*c*) to put such questions or make such observations as he may consider necessary, to the person in charge of the office and to call for such information as he may require for the preparation of any account or report which it is his duty to prepare.

(*2*) The person in charge of any office or department, the accounts of which have to be inspected and audited by the Comptroller and Auditor-General, shall afford all facilities for such inspection and comply with requests for information in as complete a form as possible and with all reasonable expedition.

Audit of Government companies and corporations.

19. (*1*) The duties and powers of the Comptroller and Auditor-General in relation to the audit of the accounts of Government companies shall be performed and exercised by him in accordance with the provisions of the Companies Act, 1956.

1 of 1956.

(*2*) The duties and powers of the Comptroller and Auditor-General in relation to the audit of the accounts of corporations (not being companies) established by or under law made by Parliament shall be performed and exercised by him in accordance with the provisions of the respective Acts.

(*3*) The Governor of a State or the Administrator of a Union territory having a Legislative Assembly may, where he is of opinion that it is necessary in the public interest so to do, request the Comptroller and Auditor-General to audit the accounts of a corporation established by law made by the Legislature of the State or of the Union territory, as the case may be, and where such request has been made, the Comptroller and Auditor-General shall audit the accounts of such corporation and shall have, for the purposes of such audit, right of access to the books and accounts of such corporation:

Provided that no such request shall be made except after consultation with the Comptroller and Auditor-General and except after giving a reasonable opportunity to the corporation to make representations with regard to the proposal for such audit.

Power of Comptroller and Auditor-General to conduct supplementary or test audit of the accounts of the Food Corporation of India.

20. The Comptroller and Auditor-General shall have power to conduct a supplementary or test audit of the accounts of the Food Corporation of India established under section 3 of the Food Corporations Act, 1964, and when he exercises such power, the provisions of section 619 of the Companies Act, 1956, shall, as far as may be, apply to such supplementary or test audit as if the said Corporation were a Government company within the meaning of section 617 of the Companies Act, 1956.

37 of 1964.

1 of 1956.

Audit of accounts of certain authorities or bodies.

21. (*1*) Save as otherwise provided in section 19, where the audit of the accounts of any body or authority has not been entrusted to the Comptroller and Auditor-General by or under any law made by Parliament, he shall, if requested so to do by the President or the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, as the case may be, undertake the audit of the accounts of such body or authority on such terms and conditions as may be agreed upon between him and the concerned Government and shall have, for the purposes of such audit, right of access to the books and accounts of that body or authority:

Provided that no such request shall be made except after consultation with the Comptroller and Auditor-General.

(*2*) The Comptroller and Auditor-General may propose to the President or the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, as the case may be, that he may be authorised to undertake the audit of the accounts of any body or authority, the audit of the accounts of which has not been entrusted to him by law, if he is of opinion that such audit is necessary because a substantial amount has been invested in, or advanced to, such body or authority by the Central or State Government or by the Government of a Union territory having a Legislative Assembly, and on such request being made, the President or the Governor or the Administrator, as the case may be, may empower the Comptroller and Auditor-General to undertake the audit of the accounts of such body or authority.

(*3*) The audit referred to in sub-section (*1*) or sub-section (*2*) shall not be entrusted to the Comptroller and Auditor-General except where the President or the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, as the case may be, is satisfied that it is expedient so to do in the public interest and except after giving a reasonable opportunity to the concerned body or authority to make representations with regard to the proposal for such audit.

CHAPTER IV

MISCELLANEOUS

Power of Comptroller and Auditor-General to delegate functions.

22. Any power exercisable by the Comptroller and Auditor-General under the provisions of this Act, or any other Act may be exercised by such officer of his department as may be authorised by him in this behalf by general or special order:

Provided that except during the absence of the Comptroller and Auditor-General on leave or otherwise, no officer shall be authorised to submit on behalf of the Comptroller and Auditor-General any report which the Comptroller and Auditor-General is required by the Constitution or the Government of Union Territories Act, 1963 to submit to the President or the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, as the case may be. 20 of 1963.

Power to make rules.

23. (*1*) The Central Government may, after consultation with the Comptroller and Auditor-General, by notification in the Official Gazette, make rules for carrying out the purposes of this Act in so far as they relate to the maintenance of accounts.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which initial and subsidiary accounts shall be kept by the treasuries, offices and departments rendering accounts to audit and accounts offices;

(b) the manner in which the accounts of any particular service or department or of any particular class or character, in respect of which the Comptroller and Auditor-General has been relieved from the responsibility of compiling or keeping the accounts, shall be compiled or kept;

(c) the manner in which the accounts of stores and stock shall be kept in any office or department of the Union or of a State, as the case may be;

(d) any other matter which is required to be, or may be, prescribed by rules.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to make regulations.

24. The Comptroller and Auditor-General is hereby authorised to make regulations for carrying into effect the provisions of this Act in so far as they relate to the scope and extent of audit, including laying down for the guidance of the Government Departments the general principles of Government accounting and the broad principles in regard to audit of receipts and expenditure.

Power to dispense with detailed audit.

25. The Comptroller and Auditor-General is hereby authorised to dispense with, when circumstances so warrant, any part of detailed audit of any accounts or class of transactions and to apply such limited check in relation to such accounts or transactions as he may determine.

Repeal.

21 of 1953.

26. The Comptroller and Auditor-General (Conditions of Service) Act, 1953, is hereby repealed.

Removal of doubts.

27. For the removal of doubts, it is hereby declared that on the commencement of this Act the Government of India (Audit and Accounts) Order, 1936, as adapted by the India (Provisional Constitution) Order, 1947, shall cease to be in force except as respects anything done or any action taken thereunder.

S. L. SHAKDHER,
Secretary.

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